

**REMARKS**

In the Office Action, the Examiner indicated that claims 1 through 16 are pending in the application, that claims 7-14 and 16 are withdrawn, and that claims 1-6 and 15 are rejected.

Claims 1 and 15 have been amended. Support for these amendments appears in the specification, at page 6, lines 25 to 29, and in Figures 5 and 6.

**Rejection of under 35 U.S.C. §103**

On page 3 of the Office Action, the Examiner rejected claims 1-6 and 15 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,111,199 to Tomoda et al. in view of U.S. Patent No. 6,674,639 to Wang et al. Applicant respectfully traverses this rejection.

**Summary of the Invention**

The present invention provides a portable device that resists deformation during the application of external force while remaining water resistant.

To achieve this objective, the present invention provides a portable device for communication with an external device. The portable device includes a case made of a flexible material. A battery compartment is defined in the case. A separable portion is formed in part of the case in correspondence with the battery compartment. The part of the case is deformable to open the separable portion and expose only the battery compartment from the case.

**The Examiner Has Not Established a Prima Facie Case of Obviousness**

As set forth in the MPEP:

To support a rejection under 35 U.S.C. §103, a reason, suggestion, or motivation to lead an inventor to combine two or more references must be found. *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.*, 37 U.S.P.Q.2d 1627, 1629 (Fed.Cir. 1996). The Examiner has not met his burden in establishing a reason, suggestion, or motivation for combining the cited references.

Neither Tomoda et al. nor Wang et al. disclose or suggest a separable portion formed in part of the case in correspondence with the battery compartment defined in the case, with this part of the case being deformable to open the separable portion and expose only the battery compartment from the case, as recited in amended claims 1 and 15. This element significantly increases the water resistance provided by the present invention. Accordingly, applicant believes that the present invention is not obvious over Tomoda et al. in view of Wang et al. and respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-6 and 15 under 35 USC §103.

**Conclusion**

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge any fees associated with this communication to applicant's Deposit Account No. 19-5425.

Respectfully submitted

January 17, 2008  
Date

/Mark D. Simpson/  
Mark D. Simpson, Esquire  
Registration No. 32,942

SYNNESTVEDT & LECHNER LLP  
1101 Market Street, Suite 2600  
Philadelphia, PA 19107  
Telephone: (215) 923-4466  
Facsimile: (215) 923-2189